

## Hayes & Eburn Criminal Law and Procedure in NSW, 4<sup>th</sup> edition

By Michael Eburn et al | LexisNexis | 2013



The 4<sup>th</sup> edition of *Hayes and Eburn Criminal Law and Procedure in NSW* is a well set out, helpful and up-to-date textbook on criminal law. It contains the usual and mandatory topics that cover this area of law as well as a few chapters on criminal procedure and evidence.

Chapter 1 sets out the general principles of criminal law, including the important issue of elements of a crime. (I note that it is good to see that the authors have included the Commonwealth criminal law on the elements of a Commonwealth offence). There is also an interesting discussion on the lack of a Bill of Rights and the European Convention on Human Rights, as well as the issue of 'discretion'.

Chapter 2 deals with murder and includes an interesting extract from the Model Criminal Code Officers Committee about murder and manslaughter. Chapters 3 and 4 deal with the complex law of manslaughter and chapter 5 is headed 'Non fatal offences against the person' which essentially means the law of assault including grievous bodily harm.

Chapter 6 deals with sexual offences, including a separate section on child sexual assault and the special evidential and procedural rules applying in sexual assault trials. It is good to see a separate chapter on this area of law as it is becoming more and more complex for criminal law practitioners. Chapter 7 deals with stealing and other property offences; and Chapter 8 deals with the important concepts of insanity, voluntariness, automatism and intoxication.

Chapter 9 deals with some of the defences relied upon in criminal law, i.e., duress, necessity and self-defence; and chapter 10 deals with the ever difficult law of attempt, conspiracy and complicity, including the distinctions between the various forms of accessorial liability.

Chapters 11 and 12 deal with criminal procedure and evidence, and this includes police powers of investigation, arrest and the law of bail, including commentary on

the new *Bail Act 2013*. There is also the law relevant to procedure in a criminal trial, as well as summary matters, some of the basic law of sentencing; and appeals and some of the fundamental laws of evidence most relied upon in any criminal matter, i.e., the admissibility of confessions/admissions and the exclusion of evidence under Part 3.11 of the Evidence Act. The book concludes with an interesting discussion on the right to silence and of course the new s 89A of the Evidence Act.

The commentary is interesting throughout and follows a logical order, which is easy to read. There are also extracts from cases as examples of the law, both the standard cases and examples of recent authority, which is most useful. In my view most of the basic issues relevant to the practice of criminal law are included, especially in relation to NSW crime. Although the book is obviously a textbook, with discussion questions at the end of each chapter suitable for the teaching of law, this book is still useful for criminal law practitioners.

I recommend this book as a useful addition to your criminal law library.

**Reviewed by Caroline Dobraszcyk**